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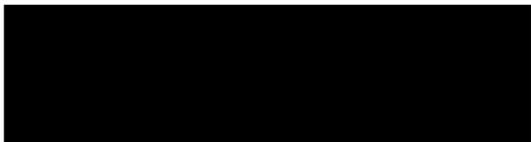
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: LOS ANGELES

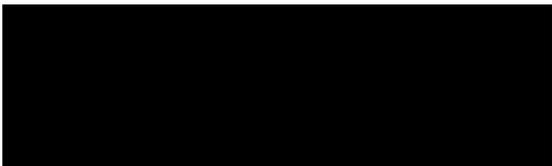
Date: **DEC 12 2007**

IN RE: Applicant:



APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application for Permanent Resident Status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Los Angeles District Office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

In her Notice of Intent to Deny (NOID), the director concluded the applicant had been convicted of three (3) misdemeanors. Therefore, the director found he was not eligible to adjust status to that of a Permanent Resident pursuant to the regulation at 8 C.F.R. § 245a.10(d)(1) which states that in order to be eligible to adjust status to that of a Permanent Resident an applicant cannot have committed a felony or three (3) or more misdemeanors in the United States. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. Though the director noted she received a rebuttal to her NOID, she found the applicant did not overcome her reasons for denial contained in that NOID. Specifically, she noted that though each of the misdemeanor convictions in the applicant's record stemmed from a single incident, her office found that each conviction was distinct and separate from the others. Therefore, she denied the application.

On appeal, the applicant asserts that Citizenship and Immigration Services (CIS or the Service) erred in determining that the applicant had been convicted of three (3) misdemeanors. He goes on to say that the Service further erred in denying his application to adjust status to that of a Temporary Resident. He asserts that two (2) of his three (3) misdemeanor convictions arise out of one (1) conviction. Therefore, he feels he has only been convicted of two (2) misdemeanors in total.

An affected party filing from within the United States has 30 days from the date of an adverse decision to file an appeal. 8 C.F.R. § 245a.2(p). An appeal received after the 30 day period has tolled will not be accepted. Pursuant to 8 C.F.R. § 245a.20(b) (1), whenever a person has the right or is required to do some act within a prescribed period after the service of notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday. 8 C.F.R. § 1.1(h).

The record reflects that the director sent her decision of November 14, 2005 to the applicant and to counsel at their addresses of record. Citizenship and Immigration Services (CIS) received the appeal seventy-four (74) days later on January 27, 2006. Therefore, the appeal was untimely filed and must be rejected.

**ORDER:** The appeal is rejected as untimely filed.